

EXHIBIT 4

FILED UNDER SEAL

CONTAINS CONFIDENTIAL OR HIGHLY CONFIDENTIAL
INFORMATION SUBJECT TO PROTECTIVE ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1) VIDEO GAMING TECHNOLOGIES, INC.,)
))
))
Plaintiff,)
))
v.) Case No. 4:17-cv-00454-GKF-JFJ
))
1) CASTLE HILL STUDIOS LLC)
(d/b/a CASTLE HILL GAMING);)
2) CASTLE HILL HOLDING LLC)
(d/b/a CASTLE HILL GAMING); and)
3) IRONWORKS DEVELOPMENT, LLC)
(d/b/a CASTLE HILL GAMING))
))
Defendants.)

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**PLAINTIFF’S SIXTH SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
DEFENDANT CASTLE HILL STUDIO LLC’S
FIRST SET OF INTERROGATORIES (NOS. 1-13)**

Pursuant to Federal Rule of Civil Procedure 33, Plaintiff Video Gaming Technologies, Inc. (“VGT”) provides these supplemental objections and responses to the First Set of Interrogatories of Defendant Castle Hill Studio LLC (collectively with the other defendants, “CHG”) (the “Interrogatories”), which supplement its initial responses that were served on November 22, 2017, its first supplemental responses that were served on December 27, 2017, its second supplemental responses that were served on March 16, 2018, its third supplemental responses that were served on June 5, 2018, its fourth supplemental responses that were served on July 9, 2018, and its fifth supplemental responses that were served on July 29, 2018.

PRELIMINARY STATEMENT

In responding to these Interrogatories, VGT does not concede the relevance, materiality, or admissibility of any Interrogatory. VGT’s response to each Interrogatory is made subject to

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CHG0040048, CHG0040995-41004, CHG0088729, CHG0090196-0218, CHG0090622-23, CHG0092360-371, CHG0094711, CHG0094942, CHG0094988, CHG0097121, CHG0120282, CHG0120285-290, CHG0120688, CHG0120827, CHG0120831, CHG0122920-969, CHG0123758, CHG0125077, CHG0125109, CHG0127894, CHG0134189- CHG0134531, CHG0134641- CHG0135485, VALTERA0001-088, TAYLOR_000027-058, TAYLOR_000090-91, TAYLOR_000095, TAYLOR_000112-13, TAYLOR_000159, TAYLOR_000168-69, TAYLOR_000210-11, ZOJOI0000326, ZOJOI0000525-26, ZOJOI0002035, and YARBROUGH0000001-0614.

INTERROGATORY NO. 2:

State all facts upon which you base the claims of trade dress infringement alleged in the Complaint. (As part of your answer, state the name of each CHG Game and the corresponding VGT Game with which each CHG Game is likely to be confused and describe with particularity the TDF present in each CHG Game.)

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 2:

VGT incorporates the General Objections stated above as if set forth fully herein and in particular objects to this interrogatory as overly broad and unduly burdensome and to the extent that it seeks Privileged Information. Subject to and without waiving the preceding general and specific objections, VGT responds as follows:

As a preliminary matter, VGT disagrees with the suggestion implicit within this interrogatory and CHG's statements elsewhere that trademarks and trade dress are readily distinguishable. Both trademarks and trade dress serve as source indicators, but the concept of trade dress is both broader and narrower than the concept of a trademark. On the one hand, trade dress law is a subset of trademark law, but on the other, trade dress law encompasses trademark law in that it extends to the overall look and feel of a product (potentially including multiple

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source indicators as well as individually non-protectable elements), as opposed to being limited to an individual source indicator. For purposes of these responses, therefore, VGT attempts to follow CHG's request for separation of these concepts to the best of its ability, but in light of the overlap between the concepts of trademarks and trade dress, VGT states that all facts identified in response to Interrogatory No. 1 also apply to Interrogatory No. 2 and vice versa.

VGT owns exclusive rights to the trade dress that it uses in connection with Class II bingo-based games. The "VGT Trade Dress" for each of the VGT Games consists of the "look and feel" of each VGT Game as a whole. The VGT Trade Dress includes, but is not limited to, the following elements: (1) trade dress features shared throughout most or all of VGT's standard-sized Class II 3-Reel mechanical games (the "Shared Trade Dress Features") and (2) game-specific themes (which themselves include the names of the games and the games' characters, artwork, and logos), some of which are shared by multiple games within a given series (e.g., the Crazy Billions game and the Crazy Bill's Gold Strike game both incorporate the Crazy Bill theme and are therefore part of the Crazy Bill series of games).

The Shared Trade Dress Features include, but are not limited to, the following: the cabinet that houses the games ("GAME CABINET"), the red strobe light on top of the cabinet, to the extent it is not part of the cabinet ("RED CANDLE"), the sounds made during standard game play ("GAME PLAY SOUND"), the mechanical bell sound that signals that a player has won ("AWARD SOUND"), the winning bingo patterns and other game play elements ("BINGO PLAY AND PAYS"), and the red display during bonus play ("RED SCREEN FREE SPINS"), all of which have been copied by CHG in its Class II games.

The VGT Trade Dress (i.e., the look and feel of each VGT Game as a whole) does not consist of a common shape or design, nor is it a mere refinement of a commonly adopted and

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well-known form of ornamentation; instead, the VGT Trade Dress is unique and therefore inherently distinctive. The VGT Trade Dress has also become commercially strong as a result of, among other factors, the following: (1) VGT has exclusively used the VGT Trade Dress for years in connection with its popular and successful games; (2) VGT has emphasized the VGT Trade Dress in its advertising, marketing, and promotional materials; (3) VGT has tried to develop and foster the reputation, recognition, and goodwill associated with the VGT Games through the VGT Trade Dress; (4) and the VGT Trade Dress has been the subject of unsolicited publicity. The VGT Trade Dress is thus recognized by consumers as an indicator that the source of the VGT Games is VGT.

In addition to being inherently distinctive and commercially strong, the VGT Trade Dress is arbitrary and therefore non-functional. The VGT Trade Dress is not essential to the VGT Games because it is not the reason VGT Games work. Furthermore, the design of the VGT Trade Dress is not especially simple or inexpensive; the VGT Trade Dress is not the subject of a utility patent; VGT does not emphasize the utilitarian advantages of the VGT Trade Dress in its advertising and marketing; and there are alternate designs to the VGT Trade Dress readily available to VGT's competitors.

CHG, which was founded by former VGT employees and employs former VGT employees, offers games with trade dress confusingly similar to that used by VGT. In or around March 2015, CHG began advertising on its website its first four games, some of which incorporated trade dress features that resemble the VGT Trade Dress; however, these original CHG games were Class III games, in contrast to VGT's Class II games. Between March 2015 and June 2016, CHG began offering Class II games that more closely resemble VGT's. Indeed, more than half of the 24 Class II games on CHG's website at the time of the Complaint

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incorporate trade dress confusingly similar to the VGT Trade Dress. *See* Response to Interrogatory No. 1. The chart below identifies the infringed series of VGT Games and the corresponding CHG games that incorporate trade dress confusingly similar to the VGT Trade Dress:

VGT	CHG
Crazy Bill Series and Dynamite Daisy Series	Welcome to Nugget Mountain
Mr. Money Bags Series	New Money
Polar High Roller Series	Arctic Cash and Arctic Ice
The Lucky Leprechaun Series	Dublin Your Luck
Hot Red Ruby Series	Double Hotness
Gems and Jewels Series	Genie's Gems
Mr. Millionaire Series	Mr. Martini and Mr. Martini: Vegas Baby
Greenback Jack Series	Coin Slinger
Planetary Pigs Series	Aces & Hogs
Countin' Cash Series and Ca\$hin' In Series	Amazing Ca\$h
Diamond Fever Series and Radiant Rocks Series	10,000 Diamonds and 20,000 Diamonds
Cap'n Crabby's Ca\$h Series	Captain Bacon
Red Hot Rubies x2 Series	Pink Sapphires

Below are examples of specific games in each of the above series that incorporate the VGT Trade Dress as compared to CHG's games that incorporate similar trade dress:

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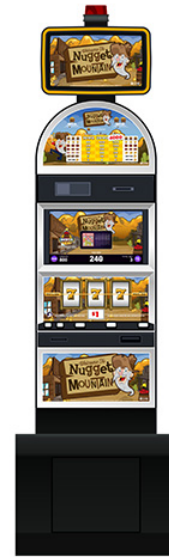
VGT - Crazy Billions



VGT - Dynamite Daisy



CHG - Welcome to Nugget Mountain



VGT - Mr. Money Bags



CHG - New Money

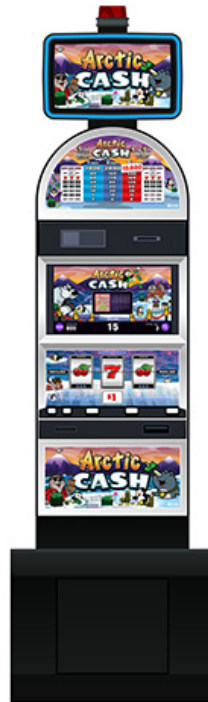


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VGT - Polar High Roller



CHG - Arctic Cash



CHG - Arctic Ice



VGT - The Lucky Leprechaun



CHG - Dublin Your Luck

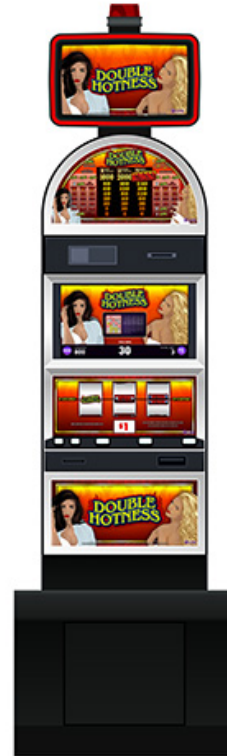


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VGT - Hot Red Ruby



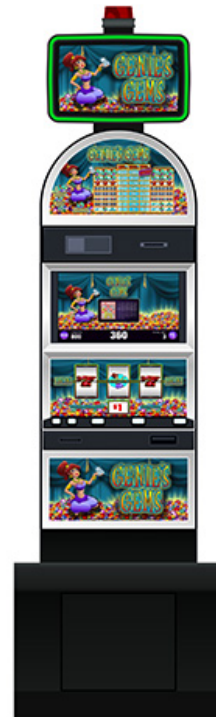
CHG - Double Hotness



VGT - Gems and Jewels



CHG - Genie's Gems



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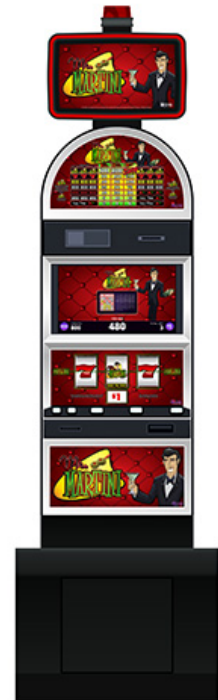
VGT - Mr. Millionaire



CHG - Mr. Martini: Vegas Baby



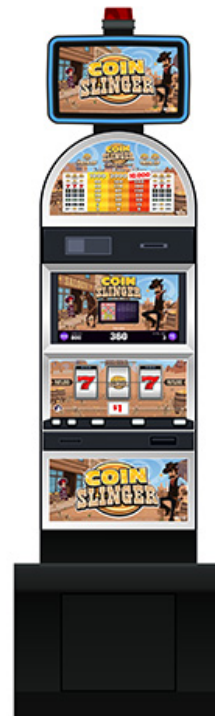
CHG - Mr. Martini



VGT - Greenback Jack



CHG - Coin Slinger



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VGT - Planetary Pigs



CHG - Aces & Hogs



VGT - Countin' Cash



VGT - Ca\$hin' in



CHG - Amazing Ca\$h



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VGT - Radiant Rocks⁴



CHG - 10,000 Diamonds



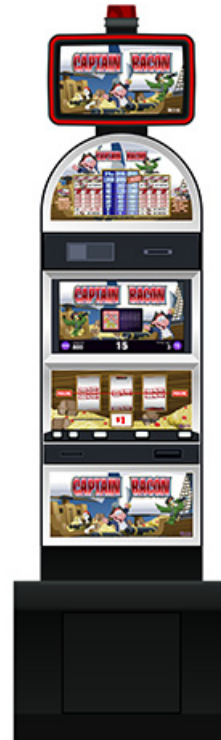
CHG - 20,000 Diamonds



VGT - Cap'n Crabby's Ca\$h



CHG - Captain Bacon



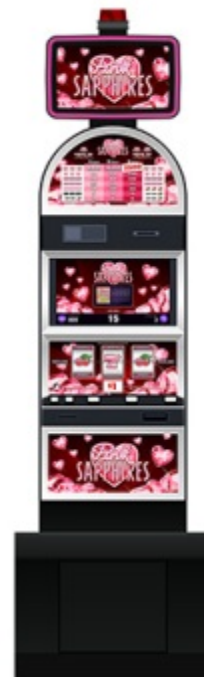
⁴ As described in the Complaint, VGT also has another diamond-themed game, Diamond Fever, not pictured here.

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VGT - Red Hot Rubies x2



CHG - Pink Sapphires

















CHG's use of similar themes, including the names of games and the games' artwork, characters, and logos, is further described in VGT's Response to Interrogatory No. 1, which is incorporated herein.

In addition, the following close-up images show examples of VGT pay tables that CHG has copied:



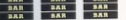



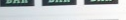
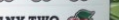

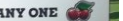

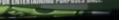


VGT Pay Tables

MR. MONEY BAGS

	1 ST CREDIT	2 ND CREDIT	3 RD CREDIT	
	800	1600	2,500	
	80	160	240	
	40	80	120	
	25	50	75	
	10	20	30	
	5	10	15	
	2	4	6	

CHG Pay Tables

NEW MONEY

	1 ST CREDIT	2 ND CREDIT	3 RD CREDIT	
	800	1600	2500	
	80	160	240	
	40	80	120	
	25	50	75	
	10	20	30	
	5	10	15	
	2	4	6	

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GOLDEN 777

PUSHO PAY TABLE			1 ST CREDIT 2 ND CREDIT 3 RD CREDIT			1 ST CREDIT 2 ND CREDIT 3 RD CREDIT		
GAME DETERMINATION IS BASED ON THE SINGLE PATTERN ONLY			1000 2000 10,000			1000 2000 10,000		
3X GOLDEN 777	ANY POSITION		80	160	240	3X GOLDEN 777	ANY POSITION	
7 7 7			60	120	180	7 7 7		
BAR BAR BAR			40	80	120	BAR BAR BAR		
BAR BAR BAR			20	40	60	BAR BAR BAR		
BAR BAR BAR			10	20	30	BAR BAR BAR		
ANY BAR	ANY BAR		5	10	15	ANY BAR	ANY BAR	
1X ANY POSITION			2	4	6	1X ANY POSITION		

COIN SLINGER

1 ST CREDIT 2 ND CREDIT 3 RD CREDIT		
1000 2000 10,000		
80	160	240
60	120	180
40	80	120
20	40	60
10	20	30
5	10	15
2	4	6

POLAR HIGH ROLLER

1 ST COIN 2 ND COIN 3 RD COIN		
1000 2000 10,000		
80	160	240
60	120	180
40	80	120
20	40	60
10	20	30
5	10	15
2	4	6

DOUBLE HOTNESS

1 ST CREDIT 2 ND CREDIT 3 RD CREDIT		
1000 2000 10,000		
80	160	240
60	120	180
40	80	120
20	40	60
10	20	30
5	10	15
2	4	6

HOT NEW CASH

1 ST CREDIT 2 ND CREDIT 3 RD CREDIT		
1000 2000 10,000		
80	160	240
60	120	180
40	80	120
20	40	60
10	20	30
5	10	15
2	4	6

DADDY MOREBUCKS

1 ST CREDIT 2 ND CREDIT 3 RD CREDIT		
1000 2000 10,000		
80	160	240
60	120	180
40	80	120
20	40	60
10	20	30
5	10	15
2	4	6

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10,000 DIAMONDS

1000	2000	10000
80	160	240
60	120	180
40	80	120
20	40	60
10	20	30
5	10	15
2	4	6

GEMS AND JEWELS

1000	2000	4000
80	160	240
40	80	120
25	50	75
10	20	30
5	10	15
2	4	6

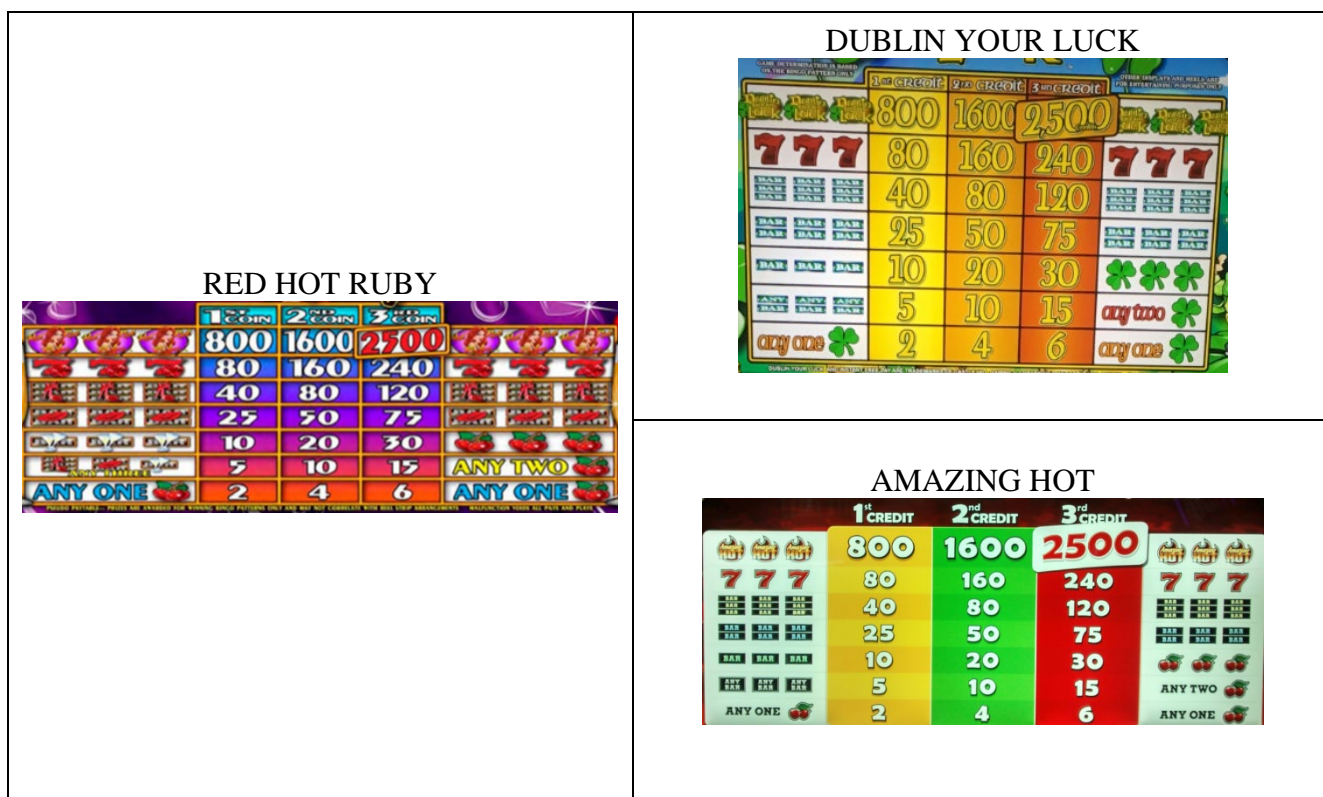
WELCOME TO NUGGET MOUNTAIN

1000	2000	4000
80	160	240
40	80	120
25	50	75
10	20	30
5	10	15
2	4	6

PLATINUM EXPRESS

1000	2000	4000
80	160	240
40	80	120
25	50	75
10	20	30
5	10	15
2	4	6

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In addition, CHG has copied VGT bingo patterns, including the following patterns: Inside Corners; Private Stripes; Postage Stamp; Corners; and Corporal Stripes.

Class II games offered by third-party competitors, examples of which are shown below, further demonstrate that the VGT Trade Dress is distinctive and that the CHG games are likely to cause confusion with VGT:

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That so many of CHG's Class II games contain trade dress similar to the VGT Trade Dress suggests that CHG seeks to confuse players.

The likelihood of confusion created by this intentional offering of essentially identical goods with nearly identical trade dress is even greater because CHG's games are in direct

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competition with the VGT Games. Indeed, CHG's games appear in the same casinos as the VGT Games, including in Oklahoma, and are often in close proximity to the VGT Games.

As a result of these actions and given that the relevant group of consumers includes both sophisticated and unsophisticated consumers, CHG has succeeded in sowing confusion among consumers, as described in greater detail in the response to Interrogatory No. 12, and is likely to cause further confusion if not enjoined.

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:⁵

VGT incorporates its earlier objections and response to this interrogatory. Subject to and without waiving its objections, VGT further responds as follows:

As described above, the VGT Trade Dress includes, but is not limited to, the following elements: (1) the Shared Trade Dress Features and (2) game-specific themes (which themselves include the game's trademarks), some of which are shared by multiple games within a given series (e.g., the Crazy Billions game and the Crazy Bill's Gold Strike game both incorporate the Crazy Bill theme and marks and are therefore part of the Crazy Bill series of games).

The GAME CABINET trade dress feature refers to the standard-sized cabinet that VGT uses to display its 3-reel mechanical games. The GAME CABINET trade dress feature thus includes, but is not limited to, the size, shape, color, material, and placement of the physical cabinet components, including, but not limited to, the cabinet frame, art glass, reels, buttons, bingo screen, payout table, topper, and red strobe light (i.e., the RED CANDLE). (VGT refers CHG to Bates numbers VGT0007160-182, from which CHG may determine additional

⁵ In the context of the below supplemental response, VGT again notes that trademarks and trade dress elements often overlap and are not readily distinguishable. But in light of CHG's request for separation of these concepts, VGT has attempted to separate the identification of its trademarks and trade dress to the best of its ability.

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information responsive to this interrogatory.) To the best of VGT's knowledge, VGT first began using the GAME CABINET trade dress feature in commerce in or around the late 1990's.

To the best of VGT's knowledge, VGT has made no material changes to the GAME CABINET (including the RED CANDLE) since it was first adopted. The only changes VGT has made to the GAME CABINET have been minor adjustments, such as changing the ticket printer bezel and raising the button deck to provide more room for the dollar bill acceptor.

In the late 2000's or early 2010's, VGT adopted a modernized alternative version of the GAME CABINET trade dress feature with a 19-inch video screen located above the reels (as opposed to a 6.4-inch video screen), which enables the game to display animations more easily, as seen in the images below. However, no material changes have been made to the alternative GAME CABINET since its adoption, and both the original and the alternative versions of the GAME CABINET trade dress feature continue to be used.

Original GAME CABINET



Alternative GAME CABINET



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The GAME PLAY SOUND trade dress feature refers to the sound made by VGT's 3-reel mechanical games during standard play (i.e., the sounds made by the games when the reels are spinning). (VGT refers CHG to Bates numbers VGT0010622-23 for examples of these sounds.) To the best of VGT's knowledge, VGT first began using the GAME PLAY SOUND trade dress feature in commerce in the 1990's, and VGT has made no material changes, if any at all, to the GAME PLAY SOUND since it was first adopted.

The AWARD SOUND trade dress feature refers to VGT's use of a mechanical bell in its 3-reel mechanical games as an indicator that the player has won credits. (VGT refers CHG to Bates numbers VGT0010622-23 for examples of these sounds and to VGT0007151-59, from which CHG may determine additional information responsive to this interrogatory.) To the best of VGT's knowledge, VGT first began using the AWARD SOUND trade dress feature in commerce in or around 1998 or 1999, and VGT has made no material changes, if any at all, to the AWARD SOUND since it was first adopted.

The BINGO PLAY AND PAYS trade dress feature refers to the winning bingo patterns VGT uses with its 3-reel mechanical games (including the frequency with which each bingo pattern hits and the payout amounts that correspond with each pattern), the method for conducting the ball drop VGT uses with its 3-reel mechanical games, the overall feel of the game play (including with respect to volatility and payouts), and the pay tables VGT uses to display to players the credits that will be awarded for each winning combination on the reels of the 3-reel mechanical games.

To the best of VGT's knowledge, VGT first began using the BINGO PLAY AND PAYS trade dress feature in commerce in or around the late 1990s or early 2000s, and VGT has made no material changes, if any at all, to the BINGO PLAY AND PAYS since it was first adopted.

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The RED SCREEN FREE SPINS trade dress feature refers to VGT's bonus spin feature in which its 3-reel mechanical games randomly enter bonus spin mode. While a game is in this bonus spin mode, the bingo display screen on the game turns red, the reels light up and begin spinning without the player needing to input any additional credits, and the amount the player wins escalates after each spin. (VGT refers CHG to Bates numbers VGT0010622-23 for examples of this bonus spin mode.) To the best of VGT's knowledge, VGT first began using the RED SCREEN FREE SPINS trade dress feature in commerce in connection with its 3-reel mechanical games in or around 1998 or 1999, and VGT has made no material changes, if any at all, to the RED SCREEN FREE SPINS since it was first adopted.

The VGT Trade Dress is inherently distinctive because is at least suggestive, if not arbitrary or fanciful, in that consumers must exercise some thought or imagination to connect the trade dress with the underlying products. The conclusion that the VGT Trade Dress is inherently distinctive is supported by a comparison of the VGT Trade Dress with competitors' trade dress. (VGT refers CHG to Bates numbers VGT0009484-9506 and VGT013604 for examples of competitors' trade dress.)

Even if the VGT Trade Dress were not inherently distinctive, the Trade Dress has acquired secondary meaning and become commercially strong. VGT is the leading developer, manufacturer, and distributor of Class II bingo-based player terminals in North America. Founded in 1991, VGT now offers more than 20,000 player terminals in over 140 locations throughout the United States. Since its inception, VGT has received awards and achieved milestones, including becoming the top provider of Class II player terminals in the United States and the top provider in Oklahoma (one of the largest Class II markets in the United States).

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As described in more detail above, VGT has been exclusively and continuously using the VGT Trade Dress for many years, and the games that display the VGT Trade Dress have generated significant revenue for VGT.

Around the time that VGT began using each of the VGT Trade Dress in commerce, VGT also began including the VGT Trade Dress in VGT's advertising, marketing, and/or promotional efforts. VGT has promoted the VGT Games (which display the VGT Trade Dress) through advertising and marketing materials and mediums, including catalogues, trade shows, cut sheets, product presentations, radio advertisements, billboards, swag, Facebook, and the VGT website. (VGT refers CHG to Bates numbers VGT0000096-168, VGT0001693-1786, VGT0006816-836, VGT0010191, VGT0010195-0206, VGT0010217-225, VGT0010229, VGT0010232-251, and VGT0010255-260 for examples of such advertising and marketing.) VGT has spent millions of dollars on such advertising, marketing, and other promotional efforts since 2007. (VGT refers CHG to Bates number VGT0010605.)

By engaging in such advertising, marketing, and promotional efforts and by investing resources in developing high-quality and popular products, VGT has developed and fostered the reputation, recognition, and goodwill associated with the VGT Games. Because VGT provides quality products and continuously advertises, promotes, and sells its products with the VGT Trade Dress, the VGT Trade Dress has acquired value and fame throughout the areas of the United States where VGT operates, particularly in Oklahoma. The VGT Trade Dress is widely recognized by consumers in the gaming industry and has acquired enormous goodwill as trade dress identifying high-quality and reliable products and services. (VGT refers CHG to Bates numbers VGT0007183-7545, VGT0006959-975, VGT0010606, and VGT00101622-644 for examples of such consumer recognition.) Because VGT has become a well-known source of

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high-quality products, several third parties have written unsolicited articles and other publications and/or produced audiovisual media featuring VGT and its games. (VGT refers CHG to Bates numbers VGT0010189-190, VGT0010192-94, VGT0010207-216, VGT0010226-28, VGT0010230-31, VGT0010251-54, VGT0010622-25, VGT0010630, and VGT0010640 for examples of such unsolicited publicity.)

In addition, CHG's own copying of the VGT Trade Dress, which is described in more detail below, is further evidence of the commercial strength of the VGT Trade Dress. Indeed, CHG's documents suggest that it copied precisely "for player familiarity and comfort" because VGT's games are so popular. (CHG0008682-83)

As noted above, CHG was founded by former VGT employees and employs former VGT employees. (VGT refers CHG to Bates numbers VGT0000083-095 and VGT0007602-682.) Several of CHG's own documents show that CHG intentionally copied the VGT Trade Dress in order to confuse players and free-ride off of VGT's goodwill.

The following are some examples of discussions reflecting such intentional copying:

- In November 2014, CHG employees Aaron Milligan, Rich Sisson, and Jason Sprinkle were discussing the design of CHG's Retro cabinet. During this discussion, Mr. Sprinkle said, "On the retro, the cabinet will be the old spec cabinet We can decide the window size but reminiscent of the old sizes is best." (CHG0008922)
- Also in November 2014, Mr. Sprinkle told Mr. Sisson and Mr. Milligan that they would be using a "one and done" picking bonus for CHG's 3-reel mechanical games because it would help CHG meet its "goal of emulation." (CHG0008656-57)
- On February 6, 2015, Mr. Milligan, Mr. Sisson, Mr. Sprinkle, and CHG employee Zach Trover were discussing the artwork that Mr. Trover was designing for Arctic

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Cash. During this discussion, Mr. Sprinkle said, “The colors should follow the polar high roller a little more, maybe the clothing will reflect and bring out more of them.”
(CHG0008379-380)

- A few weeks later, Mr. Trover sent an updated version of Arctic Cash, and again Mr. Sprinkle told Mr. Trover to make Artic Cash look more like Polar High Roller. Specifically, Mr. Sprinkle sent a photo of Polar High Roller and said, “AC is looking good but one key ingredient is missing. I would like some of these colors added, maybe the horizon, think of it as the aurora borealis and all that. It just needs to be reminiscent of this color scheme, for player familiarity and comfort.” (CHG0008682-83)

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CHG has infringed the VGT Trade Dress by using confusingly similar trade dress in connection with products that are identical or closely related to, and that compete directly with, those offered by VGT, namely Class II 3-reel mechanical gaming machines. In fact, CHG's games are often placed in close proximity to VGT's games in the exact same casinos. (VGT refers CHG to Bates numbers VGT0001688-692, VGT0007001-02, VGT0007006, VGT0007008, VGT0007010-11, VGT0007014-17, VGT0007023, VGT0007025-27, VGT0007029-031, VGT0007053, VGT0007064-65, VGT0007108, VGT0007128, VGT0007135, VGT0007139, VGT0007142, and CHG0002306 for examples of such proximity.) In addition, CHG uses similar types of advertising and marketing materials and mediums in similar trade channels, which further increases the likelihood of confusion. (VGT refers CHG to Bates numbers VGT0000001-064 and VGT0000070-82 for examples of such advertising and marketing.)

On information and belief, all of CHG's Class II games infringe the VGT Trade Dress because these games include features that are similar to the following VGT trade dress features: GAME CABINET, GAME PLAY SOUND, AWARD SOUND, BINGO PLAY AND PAYS, and RED SCREEN FREE SPINS. The subset of CHG's Class II games identified in the original response to Interrogatory No. 2 infringe the VGT Trade Dress for the additional reason that these

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games include game-specific themes that are similar to VGT game themes. Additional details on this similarity is provided in the supplemental response to Interrogatory No. 1.

In particular, with respect to the Shared Trade Dress Features, CHG is using a cabinet that is similar to VGT's GAME CABINET (both the original and alternative), as seen in the images below. Indeed, on information and belief, CHG is using the exact same type of red strobe light on top of its cabinet that VGT uses.

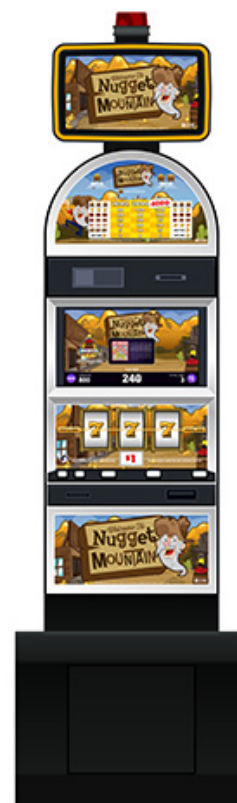
VGT's Original GAME
CABINET



VGT's Alternative GAME
CABINET



CHG's Game Cabinet



CHG is also using game plays sounds that are similar to VGT's GAME PLAY SOUND and a mechanical bell that is similar to VGT's AWARD SOUND. Indeed, on information and belief, the mechanical bell that CHG uses is the exact same type of mechanical bell that VGT

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uses. (VGT refers CHG to Bates numbers VGT0007546-49 for examples of the sounds that CHG uses that are confusingly similar to VGT's sounds.)

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CHG's copying of the bingo patterns within VGT's BINGO PLAY AND PAYS is already described above, but VGT further notes that CHG has not only copied many of VGT's bingo patterns themselves, but CHG has specifically copied some of the most recognizable bingo patterns in VGT's games and has copied the payout amounts that correspond with these patterns. Below are examples of such bingo patterns that award the same number of credits for CHG's games as VGT's games:

Pattern	VGT M4 Paytable	CHG Paytable
Inside Corners	5 credits	5 credits
Private Stripes	4 credits	4 credits
Postage Stamp	5 credits	5 credits
Corners	2 credits	2 credits
Corporal Stripes	60 credits	60 credits

CHG has further copied the VGT Trade Dress by using a bonus spin feature that is similar to VGT's RED SCREEN FREE SPINS. Much like the VGT Games, CHG's bingo-based games randomly enter a bonus spin mode (publically called Instant Free Pay, but internally referred to as "red screens," *see, e.g.*, CHG0001996, CHG0002392, CHG0008431, and CHG0008779-781, *i.e.*, the same term that VGT often uses to describe its own bonus spin feature⁶) during which the bingo display screen on the game turns red, the reels light up and

⁶ Notably, VGT owns trademark registrations for the marks RED SCREEN FREE SPINS and

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begin spinning without the player needing to input any additional credits, and the amount the player wins escalates after each spin. (VGT refers CHG to Bates numbers VGT0007548 for an example of the Instant Free Pay bonus spin feature.)

In August 2016, VGT put CHG on notice that VGT believes CHG is infringing the VGT Marks, but CHG refused to cease its infringement as requested. (VGT refers CHG to Bates numbers VGT0000065-69.)

VGT has included citations throughout the above response to specific documents; however, in addition to the documents cited above, VGT may rely on the following documents to support its trade dress infringement claims: VGT0006770-6815, VGT0006837-6933, VGT0006976-07150, VGT0007563-68, VGT0007574-7601, VGT0007683-08507, VGT0009533-552, VGT0010550-561, VGT0010562-0605, VGT0010608-621, VGT0010622-644, VGT0013165-592, VGT0013605-662, CHG0000775-0856, CHG0001365-1925, CHG0002109-110, CHG0002173, CHG 0002255-58, CHG0002306-07, CHG0002333-36, CHG0002430-31, CHG0007847-48, CHG0007858-861, CHG0007866-870, CHG0008222-23, CHG0008381, CHG0008655, CHG0008923, CHG0009253, CHG0009315-17, and CHG0019261. VGT will supplement its response to this interrogatory to specify additional documents by Bates number or source code directory after the documents have been produced.

The facts stated in responses to Interrogatory Nos. 4-7, 9-12, and 18, which VGT incorporates herein, further support claims for trade dress infringement.

SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:

VGT incorporates its earlier objections and response to this interrogatory. Subject to and without waiving its objections, VGT further responds as follows:

RED SPINS. (VGT refers CHG to Bates numbers VGT0000170-0277 and VGT0001599-1660.)

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As stated above, the GAME CABINET trade dress feature is the mechanical-reel version of VGT's LS (a/k/a C6) cabinet. VGT's other mechanical reel cabinets, including the sit-down (a/k/a slant) cabinet and the XL cabinet (with a 32-inch video screen), are not part of the VGT Trade Dress. Similarly, the VGT Trade Dress does not include the side lighting that appears on some of VGT's 3-reel mechanical games.

With regard to the GAME CABINET, VGT states that in the process of creating the modernized alternative version of the GAME CABINET described above, VGT offered a limited number of 3-reel mechanical games in LS cabinets with video screens of other sizes. VGT has since settled on an LS cabinet with a 19 or 20-inch video screen as the final modernized alternative version of the original LS cabinet with a 6-inch video screen. As the LS cabinets with the 6-inch video screen and 19/20-inch video screens comprise the vast majority of the LS cabinets that VGT uses for its 3-reel mechanical games, these are the only two variations of the LS cabinet, with respect to the size of the video screen, that are included within the VGT Trade Dress.

Although the VGT Trade Dress does appear with other slight variations as well (e.g., variations in the button deck and the presence or absence of toppers), none of these variations alter the distinctive characteristics of the Trade Dress. Thus, the VGT Trade Dress conveys a single and continuing commercial expression.

Furthermore, in addition to the documents cited above, VGT may rely on the following documents to support its trade dress infringement claims: VGT0015201-5465, VGT0053115-54069, and CHG00083.

THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:

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_____ VGT incorporates its earlier objections and response to this interrogatory. Subject to and without waiving its objections, VGT further responds as follows:

After obtaining additional facts through discovery, VGT clarifies that it is alleging that all of CHG's Class II games that are displayed in what CHG refers to as the "Retro" cabinet infringe the VGT Trade Dress because these games include features that are similar to the VGT Trade Dress. VGT further states that in addition to the subset of CHG's Class II games identified in the original response to Interrogatory No. 2, VGT alleges that CHG's Amazing Cherry infringes the VGT Trade Dress for the additional reason that this game includes artwork that is similar to VGT artwork.

In addition to the documents cited above and the documents cited in response to Interrogatory No. 1, VGT may rely on the following documents to support its trade dress infringement claims: VGT0001708, VGT0056098-6101, VGT0064926-27, CHG0011747-757, CHG0019199, CHG0023869, CHG0041410, CHG0042556-59, CHG0090613-615, CHG0090828-830, CHG0123588, CHG0134533- CHG0134639, GTS1005, ZOJOI0001979, and ZOJOI0001156.

INTERROGATORY NO. 3:

State all facts supporting the claims of unfair competition claims alleged in the Complaint.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 3:

VGT incorporates the General Objections stated above as if set forth fully herein and in particular objects to this interrogatory to the extent that it seeks Privileged Information. Subject to and without waiving the preceding general and specific objections, VGT responds as follows:

The facts stated in responses to Interrogatory Nos. 2, 3, and 12, which VGT incorporates herein, also support claims for unfair competition.

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misappropriation of VGT's confidential business information, including damages based on the benefits CHG gained through the saved cost of development or otherwise.

Respectfully submitted,

August 3, 2018

/s/ Michael S. Sawyer

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